

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	Case No. 8:13CR105
	)	
vs.	)	DEFENDANT’S MOTION FOR
	)	RELEASE OF DOCUMENTS
TIMOTHY DEFOGGI,	)	
	)	
Defendant.	)	

Comes now Defendant by and through his undersigned attorney, and for his Motion for Release of Documents, states:

1. The undersigned attorney appeared for Defendant following his trial in the above-captioned matter. Since said appearance, said attorney has been diligently attempting to obtain materials necessary to prepare for sentencing and to prepare post-trial motions in this case. Defendant’s attorney has just obtained the transcript of a July 22, 2014, hearing before Magistrate Judge Thalken regarding introduction of classified materials at trial. Defendant’s attorney, in spite of diligent effort, has not been able to obtain documents referred to in said hearing. These documents include: (1) a chart of programs on which Defendant Timothy DeFoggi worked (HT<sup>1</sup> 2:25-3:9), a copy of which chart was given to the Court and the Government; and (2) other “documents” (HT 7:2-5) which the undersigned attorney is advised by Defendant and prior defense counsel includes a letter which is described to current counsel as having some detail regarding the programs on which Defendant worked at times relevant to the verdict/Indictment herein, a copy of which “documents” were also given to the Court and the Government.

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<sup>1</sup> Hearing Transcript = HT.

2. Defendant has explained to current counsel that said materials are essential for current counsel to assess potential post-trial motions. Based on counsel's continuing review of this case, the undersigned attorney respectfully submits to the Court that said documents are relevant and necessary for the defense to make a thorough evaluation of potential post-trial motions.

3. As Defendant's attorney understands said documents to have been prepared by Defendant specifically for this case, and to have previously been disseminated to prior counsel, the Government's attorney, and the Court, Defendant's attorney respectfully suggests that there is nothing to prevent said documents being given to current counsel for use strictly within the course of the current attorney-client relationship, and for possible further use regarding subsequent proceedings in this case. There apparently has been no determination that anything contained in said documents is classified material.

4. Said documents are unavailable, except from Defendant's prior attorney or from the Court.

Wherefore, Defendant respectfully requests the Court to release copies of said documents to Defendant's current attorney, or, in the alternative, to order Defendant's prior attorney (John S. Berry, Jr.) to release copies of said documents to Defendant's current attorney.

TIMOTHY DEFOGGI, Defendant

By: s/Stuart J. Dornan  
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Attorney for Defendant

**CERTIFICATE OF SERVICE**

I hereby certify that on November 3, 2014, I electronically filed the foregoing document with the Clerk of the District Court using the CM/ECF system which sent notification of such filing to the following:

Michael P. Norris, Assistant United States Attorney

and I hereby certify that I have electronically served (via email) a copy of the foregoing document to which this certificate is attached to the parties or attorney formerly of record, shown below:

John S. Berry, Jr.

By: s/Stuart J. Dornan  
STUART J. DORNAN, #A0011658  
Attorney for Defendant